



Licensing Board

August 24, 2009 - 7:00 p.m. – **Agenda**
133 William Street, Room 314

View Minutes

* * *

PRESENT: Steven A. Beauregard, Chairman
Ronald E. Frenette, Commissioner
Marcelino “Sonny” Almeida, Commissioner – 1st Meeting (see below)
Nick Nanopoulos, Director

- **CORRESPONDENCE.**

CERTIFICATE OF APPOINTMENT

City Clerk’s Office, August 20, 2009

This is to certify that in accordance with the laws of the Commonwealth of Massachusetts and the charter and ordinances of the City of New Bedford that **Marcelino “Sonny” Almeida, 133 Durfee Street, New Bedford, MA 02740**, was appointed by the Mayor as a member of the **Licensing Board**, replacing George L. ‘Jake’ Gomes, now deceased, for a term to expire **JUNE 2010** and was **confirmed by the City Council** at a meeting held on **August 20, 2009**. (This appointment replaces George L. ‘Jake’ Gomes, who replaced Nelson N. Ostiguy, who resigned from the Licensing Board – effective December 31, 2005 and whose 6-year term would expire in June of 2010)

Attest: Rita Arruda, City Clerk

August 20, 2009

APPROVALS RECEIVED FROM THE ALCOHOLIC BEVERAGES CONTROL COMMISSION

Change of Officers, Directors, Manager, & Transfer of Stock; and Pledge of License - Trans. # 062 – (Plot # 16--1)
First Base Café, Inc., Antonio A. Santos, President, is requesting a **Change of Officers, Directors, Manager, and Transfer of Corporate Stock** of the **Common Victualler (Restaurant) All Alcoholic Beverages License**; and the acceptance of his resignation as the President, Treasurer, Clerk, and Sole-Director, and allow the transfer of all his corporate stock. **Richard F. Perzentz, Jr.** will be the new President, Treasurer, Secretary, Sole- Stockholder, and the **Proposed New Manager**; also, a **Pledge of the Common Victualler (Restaurant) All Alcoholic Beverages License and Inventory** to Fall River Five Cents Savings (Bank 5), as security to authorize and execute a **promissory note** for **\$270,000.00**, pursuant to Massachusetts General Laws Ch.138 s.23. Premises will remain the same at **38-42 Cove Street**.

Final approval will require a **‘Change of Tenant’** from the Building Department and a **‘Food Permit’** from the Health Department.

Approved By ABCC – 07/30/09

Change of Manager - Tr. # 039 - (Plot # 46--152)

Veterans Memorial Foundation, Inc., 561 Purchase Street is requesting the approval of **Kim M. Watkins**, who resides at 199 Purchase Street, New Bedford, MA as their **new manager**.

Approved By ABCC – 08/19/09

DISAPPROVALS RECEIVED FROM THE ALCOHOLIC BEVERAGES CONTROL COMMISSION

Transfer - Trans. #081 – (Plot # 94—47)

Hathaway Road, Inc. d/b/a Rosie’s, Michael A. Riccardi, President, 380 Hathaway Road, who is petitioning to **Transfer a Common Victualler (Restaurant) All Alcoholic Beverages License** to **Riccardi’s Restaurant, Inc., Michael A. Riccardi** is President, Treasurer, Clerk, Sole-Director, Sole Stockholder (100), and **Proposed Manager**. The proposed new licensed premises will consist of three (3) rooms for dining, two (2) restrooms, and a separate kitchen and storage area on the first floor of a one story building; alcohol will be stored in the stockroom and attic, and will be served from the kitchen area. The premise has two (2) entrances/exits in the front of the building, along with one emergency exit at the rear of the main dining room, and a second through the kitchen area. Premise is situated on the north side of Hathaway Road between Pine Ridge Street and the Dartmouth Town Line, and is numbered **901 Hathaway Road**.

2nd Attempt - Disapproved By ABCC – 08/05/09/08/13/09- Failure to Comply With Mass Tax Laws (DUA)
To Be Sent Back To ABCC “For Reconsideration” ONLY upon notification from Applicant or DOR to re-submit

Tabled at 07/27/09 Meeting

1. Hearing: Elm N.B., LLC d/b/a Elm 22

Everett Douglas Mills, Manager

22 Elm Street

Approved By ABCC – 03/12/08 - Prior Hearings – 2008 (2)

Your presence is respectfully requested at a hearing to determine the status of your annual liquor license for the year 2009. Notice is given in accordance with Massachusetts General Laws Chapter 138, section 77...Cancellation of license upon cessation of licensed business.

Hearing is being held at the request of the members of this Board to discuss your plans for your liquor license for the year 2009 prior to this Board considering approval of your 2010 renewal application.

You **must submit** to the Board that evening, a letter stating your intentions regarding the license that has been issued to you detailing an opening date, plans to transfer, or change of location, as it applies to your situation.

Minutes of 06/29/09 Meeting

Rec'd 06/24/09 – A request from Atty. Mathieu on behalf of his client for a continuance of the hearing scheduled for 06/29/09 to allow Mr. Mills an opportunity to personally address the Board on the status of his license, since he will be out of state on business and will not return until later in the week.

Voted: To receive and place on file the written request to continue the hearing until the Board's next meeting (07/27/09); and to approve the request and table the matter to the Board's next meeting. – **Unanimous**

Minutes of 07/27/09 Meeting

Mr. Mills stated that he anticipated that he would have a P & S Agreement in place by Friday (07/31/09), and that a transfer application would be filed by the proposed new owner (Café Cabana Corp., 1 Merrill's Wharf).

Voted: To table the matter once again until the Board's **September** meeting, with no further action, if an application for transfer is received in time for the September meeting. – **Unanimous**

2. Hearing: John Bernard Corp. d/b/a Cambories

Kim DiPasquali, Manager

804-808 Belleville Avenue

Closed – 07/21/09

Your presence is respectfully requested at a hearing to determine the status of your annual liquor license for the year 2009; notice is given in accordance with Massachusetts General Laws Chapter 138, section 77,.....Cancellation of license upon cessation of licensed business.

Hearing is being held at the request of the members of this Board to discuss your plans for your liquor license for the year 2009 prior to this Board considering approval of your 2010 renewal application.

You **must submit** to the Board that evening, a letter stating your intentions regarding the license that has been issued to you detailing an **opening date**, plans to transfer, or change of location, as it applies to your situation.

Note: On 08/13/09, licensee submitted written notice, stating that per court order, license must be sold.

Recommendation: Table to November Meeting, with a written notice sent to the licensee.

3. Application, Trans. # 132 – (Plot # 18--108-A)

N. B. Lodge #914, Loyal Order of Moose, Inc., 119 Rockdale Avenue, who is requesting the approval of Jessica Trainque, who resides at 1563 Cove Road, New Bedford, MA, as **their new manager**.

08/10/09 – Received written notice from current manager (Raymond Medina), who stated that he no longer has any connection to the Loyal Order of Moose Lodge, #914, and was resigning effective immediately.

Tabled at 07/27/09 Meeting

4. APPLICATION, “Representation Required”

Portuguese Sports Club, Inc., Jose Calheta, Manager who is requesting approval of an application for a **Special One Day All Alcoholic Beverages License** for a ‘Scholarship Fund Benefit/Bike Run’ to be held at the ‘Club – Parking Lot’, located at **56 Delano Street**; and to be held on **Saturday, August 29, 2009, from 2:00 p.m. until 11:00 p.m.**

Minutes of 07/27/09 Meeting

Due to Mr. Calheta's failure to sufficiently respond to the Board's questions regarding the flow and control of alcohol at this event, Chairman Beauregard recommended that the matter be tabled to the next meeting, to give Mr. Calheta an opportunity to

submit additional information to address those questions that were asked by the Board.

Voted: To table the matter until the Board's August 24th meeting. – **Unanimous**

5. APPLICATION, (No Representation Needed)

Route 6 Properties, Inc. d/b/a Foxy Lady Southcoast, Carol A. Moran, Manager who is requesting approval of an application for a **Special One Day All Alcoholic Beverages License** for a 'A Bike Run' to be held in **their 'Parking Lot'**, located at **161 Pope's Island**; and to be held on **Sunday, August 23, 2009, from 11:00 a.m. until 6:00 p.m.**

6. APPLICATION, (No Representation Needed)

Club Recordacoes De Portugal, Inc. Jose Valentin, Representative who is requesting approval of an application for a **Special One Day Wine & Malt Only Beverages License** for a 'An 80th Anniversary Soccer Tournament' to be held in the **Morton Avenue Soccer Field** to be held on **Sunday, August 23, 2009, from 11:00 a.m. until 7:00 p.m.**

7. APPLICATION, (No Representation Needed)

Knucklehead's, LLC d/b/a Knucklehead's, John Stone, Manager who is requesting approval of an application for a **Special One Day All Alcoholic Beverages License** for a 'Fundraiser/Cancer Victim' to be held in **their 'Parking Lot'**, located at **85 MacArthur Drive**; and to be held on **Sunday, September 6, 2009, from 11:00 a.m. until 11:00 p.m.**

8. APPLICATION, (No Representation Needed)

The Bisca Tournament Club, Inc., John Graca, President who is requesting approval of an application for a **Special One Day All Alcoholic Beverages License** for a 'A Labor Day Benefit for Escola Materna de Nossa Sra. DaGraca' to be held in **their 'Parking Lot'**, located at **161 Acushnet Avenue**; and to be held on **Sunday, September 6, 2009, from 1:00 p.m. until 11:45 p.m.**

9. APPLICATION, (No Representation Needed)

M & C Caterers, Arthur M. Hegarty, Representative, who is requesting approval of an application for a **Special One Day All Alcoholic Beverages License** for a 'Retirement Party/Deputy Chief Hegarty', which will be held at the **N.B. Whaling Museum**, located at **18 Johnny Cake Hill**; and to be held on **Friday, September 18, 2009, from 7:30 p.m. until 11:00 p.m.**

10. APPLICATION, (No Representation Needed)

Pub 6 Social Corp. d/b/a Sixth Bristol, Patricia B. Alphonse, Manager who is requesting approval of an application for a **Special One Day All Alcoholic Beverages License** for a 'Fundraiser/Pig Roast' to be held in **their 'Parking Lot'**, located at **736 Ashley Boulevard**; and to be held on **Sunday, September 20, 2009, from 2:00 p.m. until 6:00 p.m.**

11. APPLICATION, (No Representation Needed)

The Community foundation of Southeastern Massachusetts, Jeanette L. Doyle, Representative, who is requesting approval of an application for a **Special One Day All Alcoholic Beverages License** for a 'Fundraiser/The Women's Fund of C.F.S.E.M.A.', which will be held at the **Rotch-Jones-Duff House & Garden Museum**, located at **396 County Street**; and to be held on **Saturday, October 3, 2009, from 6:00 p.m. until 9:00 p.m.**

Tabled at 07/27/09 Meeting

12. APPLICATION, Trans. #77 – (Plot # 53--195)

The Pequod, Inc. d/b/a Rose Alley Ale House, Jason P. Lannigan, President, is requesting permission to **Change the Description of the Common Victualler All Alcoholic Beverages** licensed premises to include an outdoor patio area., approximately 47 sq. ft. X 11 sq. ft., which upon completion would include approximately 12 tables to seat 48 patrons for dining, and the service of alcohol, **between the hours of 12:00 p.m. and 9:00 p.m., Monday thru Sunday.** The area would be enclosed with a cast iron fence, which would be surrounded with planters, and would include an outside service station for the service of alcohol.

The outside patio area would be contiguous to the North Side of the Building, and would have an entrance/exit into the main dining room on the west side of the building with an additional entrance/exit that leads onto Rose Alley, along with an additional entrance/exit onto Front Street, which is situated on the northwest corner of Front Street and Rose Alley, and numbered **94 Front Street.**

Upon completion of the renovations, final approval will be required from the Building Department and Health Department.

Application has been advertised; Abutters have been notified

Minutes of 06/29/09 Meeting

VOTED: The vote to table the application was made following a failed motion by Commissioner Ronald Frenette to deny the application as presented, since there was no second on the motion; at which point Commissioner Frenette was asked by

Chairman Beauregard, if he would consider making a motion to table, to give the licensee an opportunity to meet once again with the neighbors to see if they could come to some sort of compromise regarding this matter. – **Unanimous**

Minutes of 07/24/09 Meeting

Chairman Beauregard stated that a planned meeting with the applicant, the neighbors, and the Mayor's Office had not taken place yet, and recommended that the matter be tabled until the Board's August 24th meeting, so that all parties may have an opportunity to meet.

Voted: To follow the recommendation, and table the matter until the Board's August 24th meeting. – **Unanimous**

13. REQUEST TO APPEAR – LATE FILE

Southcoast Business Alliance, Jay Lannigan, Representative, who is requesting approval of an application for a **Special One Day Wine & Malt Only Alcoholic Beverages License** for a 'Fundraiser/Octoberfest', to be held **outside of Ft. Taber under a tent (as was done last year)**; and to be held on **Saturday, October 3, 2008, from 3:00 p.m. until 11:00 p.m.**

14. Hearing: The Pequod, Inc. d/b/a Rose Alley Ale House

John T. Mello, Manager

94 Front Street

Your presence is requested at a hearing for failing to comply with this Board's 05/18/09 decision. **(Due 07/26/09)**

Following the hearing held on Monday evening, **May 18, 2009**, on complaints reported to this Board by the New Bedford Police Department of violations of Massachusetts General Laws, Chapter 138, sec. 34, 34b, 34c-, Alcoholic Beverages Control Commission Regulation 204CMR2.05(2) and Licensing Board Regulation No.5, this Board found you in violation of ABCC Reg. 204 CMR 2.05 (2)-Permitting an illegality on the licensed premises, to wit: Ch.138 §34- Sale or delivery of an alcoholic beverage to a person under 21 years of age (Underage Cadet – Sting); and as part of our decision, **you were required to have all current and new employees T.I.P.S. Certified, with a list of all your current employees and proof of their certifications (copy of certification cards) submitted together to the Office of the Licensing Board, within Sixty (60) days of receipt of notice (Due 07/26/09), which as of this date, has not been complied with.**

You will be given this one last opportunity to comply with this decision, if you file all the required documents **by Friday August 21, 2009**, you will not be required to attend this hearing; **but be advised, if you fail to comply by this date, you are required to appear before the Board as notified above for a hearing, which may result in the suspension of your license.**

NOTE: Received T.I.P.S Certifications on 08/21/09 – No Further Action Recommended

Tabled at 07/27/09 Meeting

15. Hearing: Portuguese American Athletic Club of Greater N.B., Inc

Arlindo Moura, Manager

56 Holly Street

Your presence is requested at a hearing for failing to comply with this Board's 04/13/09 decision. **(Due 06/21/09)**

Following the hearing held on Monday evening, **March 9, 2009**, on complaints reported to this Board by the New Bedford Police Department of violations of Massachusetts General Laws, Chapter 138, sec. 34, 34b, 34c-, Alcoholic Beverages Control Commission Regulation 204CMR2.05(2) and Licensing Board Regulation No.5, this Board found you in violation of ABCC Reg. 204 CMR 2.05 (2)-Permitting an illegality on the licensed premises, to wit: Ch.138 §34- Sale or delivery of an alcoholic beverage to a person under 21 years of age (Underage Cadet – Sting); and as part of our decision, **you were required to have all current and new employees T.I.P.S. Certified, with a list of all your current employees and proof of their certifications (copy of certification cards) submitted together to the Office of the Licensing Board, within Forty - Five (45) days of receipt of notice, which as of this date, has not been complied with.**

You will be given this one last opportunity to comply with this decision, if you file all the required documents **by Friday August 21, 2009**, you will not be required to attend this hearing; **but be advised, if you fail to comply by this date, you are required to appear before the Board as notified above for a hearing, which may result in the suspension of your license.**

NOTE: Received T.I.P.S Certifications on 08/10/09 – No Further Action Recommended

16. Hearing: Mee Hong Restaurant

Andrew Mark, Manager

120 Cove Street

Your presence is requested at a hearing for failing to comply with this Board's 05/18/09 decision. **(Due 07/26/09)**
Following the hearing held on Monday evening, **May 18, 2009**, on complaints reported to this Board by the New Bedford Police Department of violations of Massachusetts General Laws, Chapter 138, sec. 34, 34b, 34c-, Alcoholic Beverages Control Commission Regulation 204CMR2.05(2) and Licensing Board Regulation No.5, this Board found you in violation of ABCC Reg. 204 CMR 2.05 (2)-Permitting an illegality on the licensed premises, to wit: Ch.138 §34- Sale or delivery of an alcoholic beverage to a person under 21 years of age (Underage Cadet – Sting); and as part of our decision, **you were required to have all current and new employees T.I.P.S. Certified, with a list of all your current employees and proof of their certifications (copy of certification cards) submitted together to the Office of the Licensing Board, within Sixty (60)) days of receipt of notice (Due 07/26/09), which as of this date, has not been complied with.**

You will be given this one last opportunity to comply with this decision, if you file all the required documents **by Friday August 21, 2009**, you will not be required to attend this hearing; **but be advised, if you fail to comply by this date, you are required to appear before the Board as notified above for a hearing, which may result in the suspension of your license.**

17. Hearing: Arbco Corp., d/b/a Red J's Colonial Lounge
Edward W. DaCosta, Manager
24 Clifford Street

Your presence is requested at a hearing for failing to comply with this Board's 05/18/09 decision. **(Due 07/26/09)**
Following the hearing held on Monday evening, **May 18, 2009**, on complaints reported to this Board by the New Bedford Police Department of violations of Massachusetts General Laws, Chapter 138, sec. 34, 34b, 34c-, Alcoholic Beverages Control Commission Regulation 204CMR2.05(2) and Licensing Board Regulation No.5, this Board found you in violation of ABCC Reg. 204 CMR 2.05 (2)-Permitting an illegality on the licensed premises, to wit: Ch.138 §34- Sale or delivery of an alcoholic beverage to a person under 21 years of age (Underage Cadet – Sting); and as part of our decision, **you were required to have all current and new employees T.I.P.S. Certified, with a list of all your current employees and proof of their certifications (copy of certification cards) submitted together to the Office of the Licensing Board, within Sixty (60)) days of receipt of notice (Due 07/26/09), which as of this date, has not been complied with.**

You will be given this one last opportunity to comply with this decision, if you file all the required documents **by Friday August 21, 2009**, you will not be required to attend this hearing; **but be advised, if you fail to comply by this date, you are required to appear before the Board as notified above for a hearing, which may result in the suspension of your license.**

- **FOR REVIEW,**

A request from Chairman Beauregard, that the Board review its Liquor License regulation (# 15) regarding open doors, which states that "All Licensed liquor establishments shall have their doors and exits closed at all times during business hours, namely from opening time to closing time"; and how it relates to the new open air dining areas, such as the one that 'Cork' currently has and as the Catwalk Bar & Grill previously had; and like those that are found in such cities as Providence and Boston; and in doing so, that the Board with the assistance of Atty. Markey, clarify and possibly amend the regulation to address this issue of open store front dining.

Action Taken at 07/24/09 Meeting: Refer matter to Atty. Markey for review.

- **CORRESPONDENCE,**

From: Kim Gainsboro, ABCC Chairperson,

Dated – 08/07/09 Received – 08/10/09

Re: Joenat, Inc. d/b/a Freitas Package Store

1295 Cove Road

Hearing Date – Wednesday, August 26, 2009 @ 11:30 a.m. for a hearing based on the licensee's right to appeal the action of the Licensing Board of the City of New Bedford for suspending the license of Joenat, Inc. d/b/a Freitas Package Store located at 1295 Cove Road for a period of **Forty-Five (45) Days.**

Note: Notice of appeal filed with the ABCC by Atty. William E. Gens on behalf of Joenat, Inc. on 08/05/09, **which included his client's contention that he was not aware that reliance upon an out of state driver's license does not constitute a defense under M.G.L. CH.138, sec. 34, although the licensee was reminded by written notice, twice a year for the past 7 years.**

From: Raymond Medina, Manager,

Dated – 08/08/09 Received – 08/10/09

Re: Loyal Order of Moose Lodge, #914

119 Rockdale Avenue

Letter of Resignation - This is to inform you that I no longer have any connection to the Loyal Order of the Moose Lodge, #914, located at 119 Rockdale Avenue. Since my name has not yet been removed from any of the licenses or permits, I am requesting that I not be held responsible or contacted concerning for actions taken by this lodge either legal or illegal. The person to fill my previous position is Barry Lowe. (Phone # on File)

Note: Mr. Lowe was contacted on 08/10/09, and an application for a Change of Manager was given to him in hand.

From: Gilman, McLaughlin, & Hanrahan, LLP (60 Nauset St., LLC)

Dated – 08/05/09 Received – 08/10/09

Re: RSM of New Bedford, Inc. d/b/a Epicure Liquors

60 Nauset Street

Notice of Public Auction – The public auction will be conducted **on or after Wednesday, September 2, 2009 at 11:00 a.m. at 60 Nauset Street, New Bedford, MA**, by Jay Kivowitz Auctioneers, MASS. License # 1344

• **REVIEW POLICE DEPARTMENT INCIDENT REPORTS**

<u>NAME</u>	<u>POLICE REPORT#</u>	<u>DATE</u>	<u>VIOLATION</u>
1. Regal Beagle	09-9977 – OF	07/04/09	A & B W/Dangerous Weapon (Stabbing) (Approx. Time of Incident - 2:21 a.m.)

Received & Placed on File, awaiting further reports.

• **COMPLAINTS RECEIVED:**

--NONE--

• **SUBMITTED CHANGES REQUIRED**

- ***BULLPEN SPORTS PUB - CHANGE OF OFFICERS & DIRECTORS***
- ***OCTANE SPORTS BAR - CHANGE OF OFFICERS, DIRECTORS, & TRANSFER OF STOCK***
- ***ON THE ROCKS LOUNGE – NEW OFFICER, DIRECTOR, & STOCKHOLDER***
- ***RED J' S LOUNGE - CHANGE OF OFFICER***
- ***SIXTH BRISTOL - CHANGE OF OFFICERS & DIRECTORS***
- ***SOUTHSIDE ANNIE'S - CHANGE OF OFFICERS & DIRECTORS***
- ***WONDER BOWL – CHANGE OF DESCRIPTION/AAD***

Action Taken: 08/14/09 - Letters sent out to all requiring them to contact office within five (5) days.

- **NEXT TWO (2) MEETING DATES:** September 28th & October 26th
- **MEETING ADJOURNED:**